

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

JAMES C. JUSTICE, III, et al.

Plaintiffs,

V.

**OFFICE OF SURFACE MINING
RECLAMATION AND ENFORCEMENT,
UNITED STATES DEPARTMENT OF
THE INTERIOR,**

Defendant.

Civil Action No. 7:19-cv-00381

**PLAINTIFFS' NOTICE OF
FILING AMENDED COMPLAINT**

The Plaintiffs, A & G Coal Corp., Bluestone Coal Corporation, Chestnut Land Holdings, LLC, Kentucky Fuel Corporation, National Coal, LLC, Premiums Coal Company, Incorporated, S and H Mining, Inc., Tams Management, Inc., and James C. Justice, III, through counsel, respectfully submit their Notice of Filing Amended Complaint, which has been submitted to the Court via the Clerk of the Court using the CM/ECF system. The Plaintiffs further state as follows:

Through an inadvertent oversight, Plaintiffs' counsel mistakenly identified the principal place of business for several of the Plaintiff entities as Roanoke, Virginia. For the record, Plaintiffs, Dynamic Energy, Inc., Frontier Coal Company, Justice Energy Company, Inc., and Pay Car Mining, Inc., are not incorporated in Virginia and do not maintain their principal places business there. Rather, those entities run their operations, own and utilize their assets, and make general business and operational decisions in Daniels, West Virginia, which is their true

principal place of business.¹ However, those four (4) entities were named as Plaintiffs in this action solely as a result of unpaid fees due to OSM. Because those fees have now been paid in full, Dynamic Energy, Inc., Frontier Coal Company, Justice Energy Company, Inc., and Pay Car Mining, Inc. no longer have any claims for relief and have been removed as Plaintiffs from the Amended Complaint. If it is subsequently discovered that other, remaining Plaintiffs have resolved their disputes with the Defendant, they, too, will seek dismissal as parties from this action.

Further, as this amendment is being made before an Answer or other responsive pleading has been filed, it is made as a matter of course (i.e., without consent from the opposing party or leave of Court). See Fed. R. Civ. P. 15(a)(1)(B). It is also worth noting that the Amended Complaint merely seeks to correct erroneous factual allegations regarding principal places of business and remove four entities whose claims have effectively been resolved. There be no possible prejudice to the Defendant by making these amendments.²

Respectfully submitted,

/s/ Aaron B. Houchens

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¹ At the time of the filing of the Complaint, the undersigned counsel were unaware that certain individuals had been hired and that certain operations had recently been relocated from Roanoke, Virginia to West Virginia.

² Upon further review, and because the Complaint is premised upon federal question jurisdiction, any references to principal places of business are technically superfluous and have been removed from the allegations in the Amended Complaint.

And

RICHARD A. GETTY
(*Pro Hac Vice* Admission forthcoming)
C. THOMAS EZZELL
(*Pro Hac Vice* Admission forthcoming)
and
MARCEL RADOMILE
(*Pro Hac Vice* Admission forthcoming)

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COUNSEL FOR PLAINTIFFS

mwepld0754

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd of August 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and the foregoing was sent via U.S. mail to the following:

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/s/ Aaron Balla Houchens